



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2007

CORAM:

THE HON'BLE MR.JUSTICE M.CHOCKALINGAM

C.R.P.NPD.NOs. 13 and 14 OF 2006

P.Sundararajan ... Petitioner in CRP.No.13 of 2006

Babu Finance,
Udumalpet rep. by its
representative
P.Sundararajan

.. Petitioner in CRP.No.14 of 2006

Vs.

S.Palanisamy Gounder ..Respondent in both CRPs.

These Civil Revision petitions are filed against the fair and final order in I.A.Nos.127 and 128 of 2004 in CFR.Nos.11417 and 11419 of 2004 dated 23.2.2005 on the file of Subordinate Judge, Pollachi.

For petitioners: Mr.A.Sivaji
For Respondent : No appearance

O R D E R

An order of the learned Subordinate Judge, Pollachi dismissing the applications filed by the petitioners to condone the delay of 13 days and 6 days respectively in preferring the appeals from the judgment of the trial Court whereby the suits for recovery of money were dismissed.

2. The Court heard the learned counsel for the petitioners. There is no representation on the respondent side, when the matter was taken up for final hearing.

3. From the submissions made by the learned counsel for the petitioners and after perusing the materials available on record, it could be seen that the revision petitioners who filed the suits in O.S.No.85 of 2004 and 86 of 2004 respectively on the file of the District Munsif, Pollachi preferred appeals on the dismissal of the same on merits. While doing so, a delay of 13 and 6 days respectively has occurred . In order to condone the delay, applications were also filed along with the delay condonation applications. Learned Subordinate Judge thought it fit to



condone the delay and passed an order on 7.2.2005 subject to the condition that the petitioners should pay a sum of Rs.300/- in each case to the respondent on or before 22.2.2005, failing which the petitions shall stand dismissed. Since the cost as awarded by the lower Court was not paid, the matter was taken up on the next day and the applications were dismissed. Aggrieved plaintiffs/petitioners have brought forth the above Civil Revision petitions before this Court.

4. It is evident that the plaintiffs/revision petitioners suffered dismissal order by the trial Court and as against the same, appeals have been preferred. While doing so, there was a delay which is neither inordinate nor inexcusable. Apart from this, learned Subordinate Judge thought it fit that the condonation of delay has to be allowed and he has done so. But, the cost of Rs.300/- as awarded by the lower Court payable by the petitioners to the opposite party within the stipulated period of two weeks has not been complied with. It is true that the condition imposed on the petitioners to pay the cost of Rs.300/- has not been paid within the stipulated period. Under such circumstances, it would only be proper that the petitioners should have approached the said Court for extension of time, but they have not done so. Instead, they have moved this Court by filing Civil Revision Petitions.

5. Taking into consideration the facts and circumstances of the case, instead of directing the petitioners to approach the Court for seeking extension of time, this Court is of the considered opinion that it would be fit and proper that the lower Court shall take up the appeals on file subject to the condition that the petitioners should pay a sum of Rs.2,000/- in each case as costs to the respondent within a period of four weeks here from and file a memo to that effect before that Court

6. With the above observation, the Civil Revision petitions are disposed of. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

VJY



To
The Subordinate Judge, Pollachi.

WEB COPY

+ 2 CCs to Mr.A.Sivaji, Advocate SR NO 32443

CRP.NPD.NOS.13 AND 14 OF 2006

mbs[co]
Gp/18.6